

No. 9/5/84-6Lab./919.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of Administrator, Municipal Committee, Kharkhoda (Sonepat) :—

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 250 of 83

between

SHRI SUBHASH, WORKMAN AND THE MANAGEMENT OF ADMINISTRATOR,
MUNICIPAL COMMITTEE, KHARKHODA (SONEPAT).

Present :

Shri S.N. Solanki, A.R. for the workman.

Shri B.S. Malik, A.R. for the management.

AWARD

1. In exercise of the powers conferred by clause(c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the workman Shri Subhash and the management of M/s. Administrator, Municipal Committee, Kharkhoda (Sonepat), to this Court, for adjudication,—vide Labour Department Gazette Notification No. 61703—8, dated 23rd November, 1983 :—

Whether the termination of services of Shri Subhash was justified and in order ? If not, to what relief is he entitled ?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the workman is that he was employed as Sweeper with the respondent since 21st May, 1980 on monthly wages of Rs. 300 and that his services were terminated by the respondent unlawfully on 31st January, 1982 and that the order of termination contravenes the provisions of section 25.F of the Industrial Disputes Act, 1947, because no prior notice or retrenchment compensation was given to him before termination of his services.

3. In the reply furnished by the respondent, most of the allegations made in the claim statement have been admitted. It is alleged that the workman had been told verbally that letter has been received from the Government of Haryana that recruitment should be made after getting the name sponsored through the Employment Exchange.

4. On the pleadings of the parties, the following issue was settled for decision on 12th October, 1984 :—
Whether the termination of services of Shri Subhash was justified and in order ? If not, to what relief is he entitled ?

5. The management examined one witness MW-1 Shri Bhim Singh, clerk and the workman appeared as his own witness as WW-1. I have heard their learned Authorised Representatives of the parties. My findings on the issue framed are as below :—

Issue No. 1:

6. There is no dispute between the parties that the workman was employed in the month of May, 1980. It is also undisputed that his services were terminated on 31st January, 1982 after a lapse of more than one year and eight months. It is not alleged or proved by the respondent that the workman remained absent during this period. So, the workman had under all circumstances actually worked with the respondent for more than 240 days during the last 12 calendar months from the date his services were terminated, and as such the respondent was not justified in terminating his services without complying with the mandatory provisions of section 25F of the Industrial Disputes Act, 1947. The grotesque ground of termination put forth on behalf of the respondent was that instructions had been received from the Government of Haryana that employees employed without their names being sponsored through Employment Exchange, should not be retained in service. Under the Industrial Disputes Act, 1947, no distinction has been contemplated between the employees employed through Employment Exchange or otherwise. So, there is no difficulty in holding that the order of termination of services of the workman was void *ab initio* and as such not sustainable in the eyes of law.

7. In the light of my foregoing discussion, order of termination of services of the workman is set aside and the workman is ordered to be reinstated with continuity of service and full back wages. The reference is answered and returned accordingly. There is no order as to cost.

Dated the 3rd January, 1985.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

Endst. No. 250/83/160, dated the 25th January, 1985

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.